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## **DEPARTMENT OF THE INTERIOR**

### **Bureau of Land Management**

**[LLNVL02000 L14300000.EU0000 241A; N-87744; 12-08807; MO#4500069448 ]**

### **Notice of Realty Action: Proposed Modified Competitive Sale (N-87744) in White Pine County, NV**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Realty Action.

**SUMMARY:** The Bureau of Land Management (BLM) proposes to sell a 40-acre parcel of public land in White Pine County, Nevada by modified competitive sale. Bidding on the subject parcel will begin at not less than the appraised fair market value (FMV) of \$81,580. The BLM is proposing to use the modified competitive sale procedures consistent with Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and the applicable BLM land sale regulations.

**DATES:** Interested persons may submit written comments to the BLM at the address below. The BLM must receive the comments on or before [INSERT DATE 45 DAYS FROM THE DATE OF PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER]. The oral auction will be held on April 1, 2015, at 10:00 a.m., Pacific Standard Time at the Ely District Office, 702 North Industrial Way, Ely, NV 89301.

**ADDRESSES:** Bureau of Land Management, Schell Field Office, HC 33 Box 33500, Ely, NV 89301.

**FOR FURTHER INFORMATION CONTACT:** Paul Podborny, Schell Field Manager, at Ely District Office, 702 N. Industrial Way, Ely, NV 89301, or by telephone

at 775-289-1800, or by email at [ppodborny@blm.gov](mailto:ppodborny@blm.gov); or Jill A. Moore, Egan Field Manager, by telephone at 775-289-1800, or by email at [jmoore@blm.gov](mailto:jmoore@blm.gov), or email at [http://www.blm.gov/nv/st/en/fo/ely\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/ely_field_office.html). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The BLM will conduct a modified competitive sale for a 40-acre parcel of public land located north of Ely, NV, 1.3 miles east of U.S. Highway 93, described as follows:

**Mount Diablo Meridian, Nevada**

T. 16 N., R. 64 E.,

Sec. 6, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ .

The area described contains 40.00 acres.

Upon publication of this Notice in the Federal Register, the described land will be segregated from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA. Upon publication of this Notice of Realty Action and until completion of the sale, the BLM will no longer accept land use applications affecting the identified public lands, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the Federal Register of a

termination of the segregation, or [INSERT DATE 2 YEARS AFTER PUBLICATION IN THE FEDERAL REGISTER], unless extended by the BLM State Director, Nevada, in accordance with 43 CFR 2711.1-2(d) prior to the termination date.

This tract of public land has been identified for disposal by the BLM in the Ely District Record of Decision and Approved Resource Management Plan (ROD/RMP), dated August 20, 2008, as referenced in the Lands and Realty objectives LR-11, page 67, and listed in Appendix B, page B-4. Disposal of the Parcel will be conducted consistent with Section 203 of FLPMA and Public Law 109-432, the Tax Relief and Health Care Act of 2006, Title III – White Pine County Conservation, Recreation, and Development Act (WPCCRDA), enacted on December 20, 2006. All supporting documents to include a map and an appraisal report for the proposed sale are available for review at the BLM, Ely District Office. A Determination of National Environmental Policy Act Adequacy numbered NV-L020-2011-0007 for this sale was approved on April 12, 2011.

No significant resource value will be affected by the disposal of this parcel. This parcel is not required for any Federal purposes, and its disposal is in the public interest and meets the intent of the WPCCRDA and FLPMA Section 203.

In accordance with 43 CFR 2710.0-6(c)(1), 43 CFR 2710.0-06(c)(3)(ii), and 43 CFR 2711.3-3(a)(2), the BLM determined that a modified competitive sale would be appropriate based on equitable considerations in order to recognize historical users of the parcel, to protect on-going uses, and to avoid dislocation of existing users. Consistent with these requirements, the BLM identified Terry and Randy Reck as the designated bidders for the sale of this parcel.

Modified-Competitive Sale Procedures:

Modified competitive bidding includes, but is not limited to, offering the designated bidder the right to meet the highest bid or the right of first refusal to purchase the land at not less than the FMV. The highest bid among the qualified bids received for this sale will be declared. Refusal or failure to meet the highest bid shall constitute a waiver of the designated bidder preference.

The designated bidder or his authorized representative must be present at the oral bid sale. Should the designated bidder appoint a representative for this sale, they must submit in writing a notarized document identifying the level of capacity given to their designated representative. This document must be signed by both parties. The designated bidder or his authorized representative will have the opportunity to meet and accept the high bid as the purchase price of the parcel or to refuse that offer. Should the designated bidder or his authorized representative fail to exercise the preference consideration offered by the authorized officer to meet the high bid as the purchase price at the sale, the sale will proceed in accordance with regulations at 43 CFR 2711.3-2(c) using the procedures specified in 43 CFR 2711.3-1. Acceptance or rejection of any offer to purchase will be in accordance with the procedures set forth in 43 CFR 2711.3-1(f) and (g).

**Bid Deposit and Payment:**

In accordance with 2711.3-1(d), the person declared the highest bidder should submit the bid payment in the form of a bank draft, cashier's check, certified check, or U.S. postal money order, or any combination thereof, and made payable in U.S. dollars to the Department of the Interior – Bureau of Land Management. The high bidder must submit a deposit of no less than 20 percent of the successful bid by 4:30 p.m. Pacific Time on the day of the sale in the form of a certified check, postal money order, bank draft, or

cashier's check made payable in U.S. dollars to the "Department of the Interior-Bureau of Land Management." Funds must be delivered no later than 4:30 p.m. Pacific Time on the day of the sale to the BLM Collection Officers at Ely District Office, 702 North Industrial Way, Ely, NV 89301. Failure to submit the deposit following the close of the sale under 43 CFR 2711.3-1(d) will result in forfeiture of the bid deposit and the cancellation of the sale. No contractual or other rights against the United States may accrue until BLM officially accepts the offer to purchase and the full bid price is paid.

Full payment must be made within 180 days from the date the sale offer is received. Failure to pay the full purchase price within the allotted time will result in forfeiture of the bid deposit in accordance with 43 CFR 2711.3-1(d). No exceptions will be made. Arrangements for electronic fund transfer to BLM shall be made a minimum of two weeks prior to final payment. Failure to meet conditions established for this sale will void the sale and any monies received will be forfeited.

All mineral interests for the parcel will be reserved to the United States. A Mineral Potential Report was completed on May 24, 2011.

Public Law 109-432, the Tax Relief and Health Care Act of 2006, Title III – White Pine County Conservation, Recreation, and Development Act (WPCCRDA), Section 311(h)(1), states that Federal land described in subsection (a) is withdrawn from all forms of entry and appropriation under the public land laws and mining laws; all minerals will be retained by the Federal Government. Additionally, upon publication of this Notice of Realty Action, the described land will be segregated from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA.

The public land will not be offered for sale prior to 60 days from the date this notice is published in the Federal Register. The patent, if issued, would be subject to the following terms, conditions, and reservations:

1. A reservation for any right-of-way thereon for ditches or canals constructed by the authority of the United States, Reservation in Patent Right-of-Way for Ditches or Canals Act of August 30, 1890 (43 U.S.C. 945);
2. A reservation for all minerals deposited in the land so patented, and to it or person authorized by it, the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe shall be reserved to the United States;
3. The parcel will be subject to all valid existing rights; and
4. By accepting this patent, the purchasers/patentees agree to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentee, its employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the patentee's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee, its employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property resulting in: (a) Violations of Federal, State, and local laws and regulations that are now or may in the future become, applicable to the real property; (b) Judgments, claims or demands of any kind assessed against the United States; (c)

Costs, expenses, or damages of any kind incurred by the United States; (d) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property and other interests of the United States; (e) Other activities by which solid waste or hazardous substances or waste, as defined by Federal and State environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (f) Natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the patented real property, and may be enforced by the United States in a court of competent jurisdiction.

No representation, warranty or covenant of any kind, express or implied, is given or made by the United States, its officers or employees, as to title, access to or from the above described parcel of land, the title of the land, whether or to what extent the land may be developed, its physical condition, or past, present or future uses, and the conveyance of any such parcel will not be on a contingency basis. The buyer is responsible to be aware of all applicable Federal, State, and local government policies and regulations that would affect the subject lands. It is the buyer's responsibility to be aware of existing or prospective uses of nearby properties. Lands without access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

The bidders must demonstrate to the satisfaction of the authorized officer that they meet the requirements of 43 CFR 2711.2 to hold real property in the United States.

Failure to submit documentation to the BLM within 30 days from receipt of the high bidder letter shall result in the cancellation of the bid. The parcel may be subject to land use applications received prior to publication of this notice if processing the application would have no adverse effect on the marketability of title, or the FMV of the parcel. Encumbrances of record, appearing in the case file for this sale are available for review during business hours, 7:30 a.m. to 4:30 p.m., Pacific Time, Monday through Friday, at the Ely District Office, except during federally recognized holidays.

The parcel is subject to limitations prescribed by law and regulation, and prior to patent issuance, a holder of any right-of-way within the parcel may be given the opportunity to amend the right-of-way for conversion to a new term, including perpetuity, if applicable, or to an easement.

The BLM will notify valid existing right-of-way holders of their ability to convert their compliant rights-of-way to perpetual rights-of-way or easements. Each valid holder will be notified in writing of their rights and then must apply for the conversion of their current authorization.

Unless other satisfactory arrangements are approved in advance by a BLM authorized officer, conveyance of title shall be through the use of escrow. Designation of the escrow agent shall be through mutual agreement between the BLM and the prospective patentee, and costs of escrow shall be borne by the prospective patentee.

Requests for all escrow instructions must be received by the BLM, Ely District Office prior to 30 days before the scheduled closing date. There are no exceptions.

All name changes and supporting documentation must be received at the BLM, Ely District Office 30 days from the date on the high bidder letter by 4:30 p.m. Pacific Time.



Name changes will not be accepted after that date. To submit a name change, the high bidder(s) must submit the name change on the Certificate of Eligibility form to the BLM, Ely District Office in writing. Certificate of Eligibility forms are available at the BLM, Ely District Office and at the BLM Web site at:

[http://www.blm.gov/nv/st/en/fo/ely\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/ely_field_office.html).

The BLM will not sign any documents related to 1031 Exchange transactions. The timing for completion of the exchange is the bidder's responsibility in accordance with Internal Revenue Service regulations. The BLM is not a party to any 1031 Exchange.

In accordance with 43 CFR 2711.3-1(f), the BLM may accept or reject any or all offers to purchase, or withdraw any parcel of land or interest therein from sale, if, in the opinion of the BLM authorized officer, consummation of the sale would be inconsistent with any law, or for other reasons.

In order to determine the FMV through appraisal certain extraordinary assumptions and hypothetical conditions are made concerning the attributes and limitations of the land and potential effects of local regulations and policies on potential future land uses. Through publication of this Notice, the BLM advises that these assumptions may not be endorsed or approved by units of local Government.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Any comments regarding the proposed sale will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

**(Authority:** 43 CFR 2711.1-2(a) and (c))

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Paul E. Podborny,  
Field Manager, Schell Field Office

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